

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48123 of 2025

In
CRIMINAL MISCELLANEOUS No.27665 of 2025

Arising Out of PS. Case No.-12 Year-2025 Thana- UCHKAGAON District- Gopalganj

1. Mohmad Nazir Alam S/o Late Abdul Rahman @ Abdur Rahman Resident of vill- Piprahi, P.S- Uchkagaon, Distt.- Gopalganj
2. Sakil Ahmad @ Sakil @ Jhuna Alam S/o Mohmad Nazir Alam Resident of vill- Piprahi, P.S- Uchkagaon, Distt.- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Y.V.Giri, Sr. Advocate
		Mr.Sanjay Kumar Giri, Advocate
For the State	:	Mr.Brajendra Nath Pandey, APP
For the Informant	:	Mr.Harsh Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

3 08-08-2025 Heard Mr. Y.V. Giri, learned Senior Counsel for the petitioners, learned counsel for the informant and learned A.P.P. for the State.

2. The present application under Section 528 of B.N.S.S. has been preferred for modification of Paragraph No. 3 of the bail application being Cr. Misc. No. 27665/2025 which was disposed of granting bail to the petitioners vide order dated 23.06.2025.

3. Learned Senior Counsel for the petitioners submits that the bail application was heard and allowed vide order dated 23.06.2025, however, there was one condition which was



imposed by this Hon'ble Court being condition 'd' which is to the extent mentioned below:-

“d. And further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. However, the acceptance of bail bands in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.”

4. Learned Senior Counsel has stated that due to inadvertence the following cases could not be disclosed in Paragraph '3' of the said bail application in respect of the two petitioners, which are as under:-

Petitioner No.1

(i) Complaint Case No. 788 of 2018 under section 420, 467, 468, 217, 218, 167, 194, 471/34 IPC/Trial No. 155 of 2025. The petitioner has already been granted Bail vide order dated 22.10.2018 by Learned CJM, Gopalganj.

Petitioner No. 2

(i) Gopalpur P.S Case No. 66 of 2018 under section 447, 448, 341, 323, 379, 504, 34, 307, 354 of IPC read with



section 25 (1-B) a, 35.37 b of the Arms Act. The petitioner no. 2 has been granted Bail by Hon'ble Court vide Criminal Misc. No. 70801 of 2018 vide Order dated 18.12.2018. Petitioner No. 1 has also been granted Bail by same Order.

(ii) Complaint Case No. 788 of 2018 under section 420, 467, 468, 217, 218, 167, 194, 471/34 IPC/Trial No. 155 of 2025. The petitioner has already been granted Bail vide order dated 22.10.2018 by Learned CJM, Gopalganj.

(iii) Fhulwaria PS Case No. 26 of 2018 under section 447,323,379, 504, 506, 34. The petitioner has already been granted Bail in 2018 itself.

5. Learned Senior Counsel has mainly submitted that the aforesaid non-disclosure of the antecedents of the petitioners was on account of inadvertence and was a *bona fide* mistake and there was no intention of the petitioners to suppress the antecedents, especially for the reason that petitioner no. 1 had earlier disclosed that he carried seven criminal antecedents while petitioner no. 2 had one criminal antecedent. It is, thus, submitted that the mistake was non-intentional and there was no ulterior motive to suppress the information with regard to the antecedent and, therefore, paragraph no. 3 of the bail application can be modified to the aforesaid extent and the criminal



antecedent now mentioned in the paragraph '4' of the present application be treated as part of paragraph no. 3 of the main bail application.

6. Learned counsel appearing on behalf of the informant has opposed the prayer for modification and has submitted that in the present case, the non-disclosure of the complete antecedents was intentional as during the course of hearing of the main bail application, this issue was raised on behalf of the informant; however, learned Senior Counsel for the petitioners stood by his ground and had stated that the declaration made in Paragraph '3' of the petition is true and there was no other criminal antecedent of the petitioner.

7. Learned counsel for the informant has, thus submitted that once the petitioners had let go an opportunity of making necessary corrections during the pendency of the bail application there is no occasion for any further modification of the said bail application and the same is liable to be dismissed. Learned counsel for the informant has also submitted that the petitioners were not fair enough and the application for modification was not filed immediately but only when the objection was raised before the learned court below after acceptance of the bail bond with regard to their criminal



antecedents and suppression thereof before the Hon'ble High Court, the present application for modification has been filed, which goes on to show that the petitioners had deliberately and intentionally withheld the information with regard to the other antecedents which is found to be four in number jointly of the petitioners and therefore, the present modification is completely misconceived.

8. Learned counsel appearing on behalf of the informant has raised another question with regard to the maintainability of the present application as the present application has been filed after disposal of the main bail application i.e. Cr. Misc. No. 27665/2025 and therefore, no modification can be allowed in an application which already stands disposed of.

9. Before advertng into the merits of the case relevant provisions for deciding the issue which needs reference to are firstly Section 403 of B.N.S.S. (362 of Cr.P.C.) provides as under:-

“403. Court not to alter judgment.

Save as otherwise provided by this Sanhita or by any other law for the time being in force, no Court, when it has signed its judgment or final order disposing of a case, shall alter or review



the same except to correct a clerical or arithmetical error.”

10. Section 439(1)(b) Cr.P.C./ 483(1)(b) B.N.S.S.

proviso is provided hereunder for a ready reference:-

“ 439. Special powers of High Court or Court of Session regarding bail.

(1) A High Court or Court of Session may direct -

(a).....;

(b) that any condition imposed by a Magistrate when releasing any person on bail be set aside or modified:

Provided that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence which is triable exclusively by the Court of Session or which, though not so triable, is punishable with imprisonment for life, give notice of the application for bail to the Public Prosecutor unless it is, for reasons to be recorded in writing, of opinion that it is not practicable to give such notice: Provided further that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence triable under section 65 or sub-section (2) of section 70 of the Bharatiya Nyaya Sanhita, 2023, give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such



application.”

11. Considering the aforesaid statutory provisions of law, I am of the opinion that Section 439(1)(b) of Cr.P.C. is the only provision which gives express power to High Court and Court of Sessions to modify and alter the condition imposed by Magistrate while granting bail, and no such power has been given to the High Court and the Sessions Court to modify or alter the conditions of bail orders passed by it by a subsequent order.

12. This Court is aware that a bail order is an interlocutory order, but Cr.P.C./ B.N.S.S. does not provide power of review to courts exercising power under criminal jurisdiction. Section 362 Cr.P.C./ 403 of B.N.S.S. is mandatory in nature and provides that only clerical and arithmetic errors can be corrected in judgments, signs and orders disposing of a case. The final order and judgment shall not be reviewed, but only arithmetic or clerical errors can be looked into. The condition of a bail order, in my opinion, is not clerical or arithmetical and the said condition is intentionally imposed by the Court granting bail to an accused person. Therefore, power not directly and expressly provided to court cannot be said to be impliedly provided under Section 482 of Cr.P.C./ 528 B.N.S.S.



13. In such view of the matter, this Court finds that an application which has already been disposed of vide order dated 23.06.2025 cannot be modified through an application under Section 482 Cr.P.C., as this Court after disposing of the said bail application become *functus officio*.

14. Therefore, in view of the discussions made hereinabove, I find that the present application for modification is not maintainable and is, thus dismissed.

(Sourendra Pandey, J)

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